

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

\*  
ELAINE CHAO, SECRETARY OF LABOR, \*  
United States Department of Labor, \*  
\*  
Plaintiff, \*  
\* CIVIL ACTION  
v. \* FILE NO. 05-11076 (GAO)  
AMBIENCE 401(k) PLAN & TRUST, \*  
\*  
Defendant. \*  
\* \*

MOTION FOR APPOINTMENT OF SUCCESSOR FIDUCIARY

Now comes the Plaintiff, Elaine Chao, Secretary of Labor of the United States Department of Labor, and moves the Court to appoint Attorney Marcia S. Wagner of the Wagner Law Group, Boston, Massachusetts, to act as successor fiduciary to the Ambiance 401(k) Plan & Trust.

In support of her Motion, the Secretary states that Attorney Wagner, by her experience in serving as a successor fiduciary in other matters for the United States Department of Labor, and by her education and practical experience in the areas of ERISA and employee benefits, is eminently qualified to serve in the capacity as successor fiduciary for the Plan and she has agreed to so serve, should the instant Motion be granted.

The scope of Attorney Wagner's authority from this Court to act as successor fiduciary is more fully delineated in the Proposed Order submitted herewith.

This Motion, in keeping with the Secretary's representations to the Court, at the

recent status conference, will be served by publication in the form attached, which has previously been approved by this Court.

Accordingly, the Secretary urges that this Motion be granted.

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DATE: November 22, 2005